REMARKS

Applicant is in receipt of the Office Action mailed January 4, 2005. Reconsideration of the present case is earnestly requested in light of the following remarks.

Applicant thanks Examiner for the Interview of February 9, 2005. In this interview, Applicant and Examiner discussed the current rejections. As a result of the interview, Applicant agreed to amend various claims to clarify the nature of registers of a hardware device, i.e., that registers of a hardware device are hardware registers. The Examiner stated that this would overcome the art of record.

§103 Rejections

Claims 1, 3, 5-11, 13-16, 36, 37, 39-43, and 45-47 were rejected under 35 U.S.C. 103(a) as being unpatentable over McKaskle et al. (U.S. Patent No. 5,481,741, hereinafter "McKaskle") in view of Rezvanie et al. (U.S. Application No. 2003/0140090, hereinafter, "Rezvani").

Applicant respectfully submits that McKaskle and Rezvanie neither teach nor suggest, taken both singly and in combination:

> 1. (Currently Amended) A method for creating a graphical program which performs hardware register accesses in a hardware device, wherein the method operates in a computer including a display screen and a user input device, the method comprising:
>
> displaying on the screen a register access node in the graphical program in response to user input; and
>
> configuring the register access node to access one or more hardware registers of the hardware device, wherein said configuring includes accessing a description of the hardware device for information regarding the one or more hardware registers of the hardware device;

wherein, during execution of the graphical program, the register access node is operable to access the one or more hardware registers of the hardware device based on the information.

Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 1 and those dependent therefrom are allowable.

Applicant respectfully submits that McKaskle and Rezvanie neither teach nor suggest, taken both singly and in combination:

36. (Currently Amended) A method for creating a graphical program which performs hardware register accesses in a hardware device, wherein the method operates in a computer including a display and a user input device, the method comprising:

storing a description of the hardware device;

displaying on the screen a register access node in the graphical program in response to user input, wherein the register access node is operable to access the hardware device;

connecting an input of the register access node to receive the description of the hardware device in response to user input; and

configuring the register access node to access selected hardware registers described in the description of the hardware device in response to user input, wherein said configuring includes accessing the description of the hardware device for information regarding the selected hardware registers of the hardware device;

wherein the register access node is operable to access the selected hardware registers of the hardware

device during execution of the graphical program based on the information.

Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 36 is allowable.

Applicant respectfully submits that McKaskle and Rezvanie neither teach nor suggest, taken both singly and in combination:

37. (Currently Amended) A memory medium for performing hardware register accesses in a hardware device, the memory medium comprising program instructions executable by a processor to:

display on the screen a register access node in the graphical program in response to user input; and

configure the register access node to access one or more hardware registers of the hardware device, wherein, in configuring the register access node to access the one or more hardware registers of the hardware device, the program instructions are executable by the processor to access a description of the hardware device for information regarding the one or more hardware registers of the hardware device;

wherein, during execution of the graphical program, the register access node is operable to access the one or more hardware registers of the hardware device based on the information.

Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 37 and those dependent therefrom are allowable.

Applicant respectfully submits that McKaskle and Rezvanie neither teach nor suggest, taken both singly and in combination:

> 43. (Currently Amended) A system for performing hardware register accesses in a hardware device, the system comprising:
>
> a computer including a processor coupled to a memory; and
>
> a hardware device coupled to the computer;
>
> wherein the processor is operable to execute program instructions stored in the memory to:
>
> display on the screen a register access node in a graphical program in response to user input; and
>
> configure the register access node to access one or more hardware registers of the hardware device, wherein, in configuring the register access node to access the one or more hardware registers of the hardware device, the processor is operable to execute the program instructions to access a description of the hardware device for information regarding the one or more hardware registers of the hardware device;
>
> wherein, during execution of the graphical program, the register access node is operable to access the one or more hardware registers of the hardware device based on the information.

Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 43 and those dependent therefrom are allowable.

Claims 4, 12, 17, 18, 23-25, 29, and 30-35 were rejected under 35 U.S.C. 103(a) as being unpatentable over McKaskle in view of Rezvanie in further view of Yamamoto et al. (U.S. Patent No. 5,847,953, hereinafter "Yamamoto").

Applicant respectfully submits that McKaskle, Rezvanie, and Yamamoto neither teach nor suggest, taken both singly and in combination:

> 17. (Currently Amended) A method for creating a graphical program which performs hardware register accesses in a hardware device, wherein the method operates in a computer including a display and a user input device, the method comprising:
>
> storing a description of the hardware device;
>
> displaying on the screen a first node in response to user input, wherein the first node references the description of the hardware device;
>
> displaying on the screen a register access node in response to user input, wherein the register access node is operable to access the hardware device;
>
> connecting the first node to the register access node in response to user input, wherein the first node is operable to provide the description of the hardware device to the register access node;
>
> wherein the register access node receives the description, wherein the register access node is operable to access hardware registers of the hardware device during execution of the graphical program based on the description of the hardware device.

Accordingly, Applicant respectfully submits that, at least for one or more reasons presented, claim 17 and those dependent therefrom are allowable.

The Office Action cites various of the dependent claims as being rejected under 35 U.S.C. 103. Various of the independent claims have been amended to overcome rejections under 35 U.S.C. 103. Applicant respectfully submits: "If an independent

claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)" as stated in the MPEP §2143.03. Accordingly, Applicant respectfully submits that claims 4, 12, 18, 23-25, 29, and 30-35 are nonobvious and allowable.

Claims 19-22 and 26-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over McKaskle in view of Rezvanie in further view of Yamamoto in further view of McIntyre et al. (U.S. Patent No. 6,229,538, hereinafter "McIntyre").

The Office Action cites various of the dependent claims as being rejected under 35 U.S.C. 103. Various of the independent claims have been amended to overcome rejections under 35 U.S.C. 103. Applicant respectfully submits: "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)" as stated in the MPEP §2143.03. Accordingly, Applicant respectfully submits that claims 19-22 and 26-28 are nonobvious and allowable.

Applicant also respectfully submits that there is no teaching, suggestion, or motivation to combine McKaskle, Rezvanie, Yamamoto, and McIntyre either in the references or in the prior art. As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. Furthermore, Applicant respectfully submits that it is nonobvious to combine McKaskle, Rezvanie, Yamamoto, and McIntyre.

Furthermore, the showing of a suggestion, teaching, or motivation to combine prior teachings "must be clear and particular. . .Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'." *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to

one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination. Applicant respectfully submits that there is no suggestion in the prior art for combining McKaskle, Rezvanie, Yamamoto, and McIntyre, and that even were the references combined, they would not produce the features of claims 1-48.

Removal of the §103 rejections is respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-38200/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

☒ Request for Continued Examination

☐ Request for Approval of Drawing Changes

☐ Notice of Change of Address

☐ Check in the amount of $ for fees ( ).

☐ Other:

Respectfully submitted,

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